

Message Text

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ACTION EUR-12

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PASS EB FOR BOEKER, L FOR FELDMAN, TREASURY FOR
CARLSON AND RICHARD GORDON

E. O. 11652: N/A

TAGS: EINV, OECD, EFIN

SUBJECT: WORKING PARTY NO. 6 OF COMMITTEE ON
FISCAL AFFAIRS, OCTOBER 15, 1975, MEETING

1. OECD WORKING PARTY NO. 6 OF THE COMMITTEE ON FISCAL
AFFAIRS MET ON OCTOBER 15. TAX PROVISIONS OF THE
PROPOSED GUIDELINES FOR MULTINATIONAL ENTERPRISES WERE
DISCUSSED. WP CONSIDERED THE TEXT DATED 12 JUNE 1975
SUBMITTED TO THE COMMITTEE ON FISCAL AFFAIRS (OECD/DAF/
CFA/75.13).

2. AFTER SUBSTANTIAL DISCUSSION, WP AGREED TO FOLLOWING
LANGUAGE WHICH WILL BE PRESENTED TO THE CIME (DAF/CFA/
75.24):

BEGIN QUOTE
ENTERPRISES

(1) SHOULD PROVIDE THE TAXATION AUTHORITIES OF EACH OF
THE COUNTRIES IN WHICH THEY OPERATE WITH THE INFOR-
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MATION NECESSARY TO DETERMINE CORRECTLY THE TAXES

TO BE ASSESSED IN CONNECTION WITH SUCH OPERATIONS,
INCLUDING RELEVANT INFORMATION CONCERNING THEIR
OPERATIONS IN OTHER COUNTRIES.

(2) SHOULD REFRAIN FROM MAKING USE OF THE PARTICULAR
FACILITIES AVAILABLE TO THEM, SUCH AS ARTIFICIAL
TRANSFER PRICING, FOR MODIFYING, IN WAYS CONTRARY
TO NATIONAL LAWS, THE TAX BASE ON WHICH MEMBERS OF
THE GROUP ARE ASSESSED.

END QUOTE

3. PARAGRAPH (1) OF THE PREVIOUS DRAFT HAD REQUIRED THAT
MNES PROVIDE TAX AUTHORITIES IN THE COUNTRIES IN WHICH
THEY OPERATE WITH INFORMATION NECESSARY TO DETERMINE
TAXES "...INCLUDING INFORMATION CONCERNING THEIR
OPERATIONS IN OTHER COUNTRIES." U.S. DELEGATION
OBJECTED TO THIS LANGUAGE ON THE GROUNDS THAT IT MIGHT
BE SEIZED UPON BY A GOVERNMENT TO OBTAIN MORE INFORMA-
TION ON OPERATIONS IN THIRD COUNTRIES THAN WAS REALLY
NECESSARY FOR THE ACTUAL COMPUTATION OF TAX. NEW
DRAFT INSERTS BEFORE WORD "INFORMATION" THE
WORD "RELEVANT". WHILE THE U.S. STILL REGISTERED ITS
CONCERN, WE FOUND THE LANGUAGE ACCEPTABLE AS PART
OF THE OVERALL PROVISION. SWISS DELEGATION REGISTERED
OBJECTION TO RETAINING REFERENCE TO OPERATIONS IN
OTHER COUNTRIES, AND THE U.S. AGREED THAT IT WOULD
BE PREFERABLE TO DELETE IT.

4. PARAGRAPH (2) OF THE PREVIOUS DRAFT HAD MADE
REFERENCE TO MNES NOT MAKING USE OF FACILITIES AVAILABLE
TO THEM FOR MODIFYING THEIR TAX BASE "IN WAYS CONTRARY
TO THE PRINCIPLES OF NATIONAL LAWS,...".
AFTER LENGTHY DEBATE, DURING WHICH THE U.S. DELEGATION
STRONGLY OBJECTED TO THE USE OF THE VAGUE TERM
"PRINCIPLES", PARAGRAPH (2) AS SET FORTH ABOVE WAS
ADOPTED. THE REFERENCE TO "ARTIFICIAL TRANSFER
PRICING" WAS INSERTED BECAUSE IT WAS FELT THAT MANY
COUNTRIES WOULD DEMAND THAT TRANSFER PRICING BE
MENTIONED.

5. THE REMAINDER OF THE MEETING WAS DIRECTED TO
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DISCUSSION OF PAPERS ON THE MEASURES TAKEN BY
BELGIUM AND FRANCE TO COMBAT THE USE OF TAX HAVENS.
TURNER

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